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GRAT Summary

GRANTOR RETAINED ANNUITY TRUST

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What are the advantages of a Grantor Retained Annuity Trust?

- Large estate tax savings
  - Transfer most of the future appreciation in growth assets to your children at little or no tax cost
- Very low tax risk
  - The IRS has promulgated regulations to govern use of the GRAT – it is a “safe harbor” technique
- Easy to implement and administer

How does the GRAT work?

- Gift of Property Into Trust
- Annuity Payment is returned to Grantor(s) annually at Section 7520 rate
- Gift to Beneficiaries (Discounted)
- Tax Benefits – Transfer More Property with Less Tax
- Integrate with Other Estate Planning Tools

Ideal Assets

- Assets that will appreciate faster than the Section 7520 applicable rate
- Stocks and Marketable Securities
- Options
- LLC Interests or Partnership Interests
- Consider Qualified Personal Residence Trust for real estate

Gift of Trust with Retained Interest

- You make a gift of the property to a trust – your children do not have to buy it
- You retain an annual annuity that is paid each year
- You must survive the trust term to achieve estate tax savings
- Appreciation in excess of the Section 7520 rate is passed to your children free of transfer taxes

Valuation Discounts

- Transfer is a gift for tax purposes – subject to gift tax (ordinarily current FMV)
- You are entitled to 2 key discounts to current FMV:
  - #1 – Your children must wait to get the property (until GRAT term is over)
  - #2 - You retain the "right" to get the property back if you die before the GRAT term is over
- These discounts can result in substantial reductions to current FMV

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Drawbacks

- You must survive the GRAT term to achieve the estate tax savings
  - (Note possibility of fixing this problem with term life insurance)
- You must pay income tax on assets in Trust
  - (Note that this can be an excellent estate/gift tax planning device)
- The GRAT is an irrevocable trust – there may be no commutation
  - (Note that you retain right to make key changes)
- May use some or all of lifetime gift tax exemption *OR* even owe gift tax at inception

Tax Benefits

- After the GRAT Term – the property is out of your estate for estate tax purposes
- All appreciation is out of your estate for estate tax purposes
- Any taxes you pay for the GRAT reduce your taxable estate and preserves assets for your beneficiaries
- No gift tax consequences unless you have already used up your lifetime exemption
- The trust is a Grantor Trust, so you do not realize any income tax on the annuity payments

Terms of Trust

- The GRAT must be established for a term of years (For example, 3 years, 5 years or 7 years). Minimum term is 2 years
- Annuity payments returned to the Grantor may be contributed to another GRAT, creating a rolling series of GRATs
- The annuity may be “back-end loaded” such that the payment starts low and increases by as much as 20% each year
- If the assets do not appreciate faster than the Section 7520 rate, they are returned in kind to the Grantor. They may also be re-contributed to a new GRAT

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Thank you for your time.

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NOTICE ABOUT IRREVOCABLE PLANNING TECHIQUES: The decision to use a Grantor Retained Annuity Trust requires a balancing of the tax benefits and the potential loss of control that comes with placing the property in trust. Because the GRAT is irrevocable, you should give serious consideration to whether it is appropriate for you.